

Jurisdictional questions in relation to the situs of a sales transaction may be found in Section 270.115 of the Department's regulations which sets forth the test used to determine what local tax is applicable to any given sale. See 86 Ill. Adm. Code 270.115. (This is a GIL.)

May 31, 2005

Dear Xxxxx:

This letter is in response to your letter dated September 11, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We are writing on behalf of our client, ABC to determine the applicability of a private letter ruling issued to ABC last year on ABC's direct-ship catalog sales. (The PLR is attached to this letter.) In that letter, the Department advised ABC that its direct-ship catalog orders, which had formerly been accepted outside of Illinois, were now properly situated to CITY as a result of changes in ABC's business processes. ABC has changed the order processing methodology for its 'will-call' catalog sales (i.e., sales in which the customer requests that the catalog items be shipped to a ABC facility rather than to the customer's address). The order acceptance process for 'will-call' sales is now handled identically to the 'direct-ship' sales that were the subject of the prior ruling.

All orders are filled from a separate catalog inventory located outside of Illinois. All items are shipped with invoices that identify each customer and the items ordered by that customer. No will-call items are commingled with store inventory.

Given that the order acceptance process for the 'will call' catalog sales is identical to the direct-ship sales, we have concluded that the will call sales are now subject to Retailers' Occupational Tax and should be situated to CITY as well. Could you confirm your agreement that the sales are now subject to the Retailers' Occupational Tax and are properly situated to CITY?

If the Department cannot so conclude, I request that the Department contact me to determine what additional information is required or allow the taxpayer to rescind this request. Please feel free to contact me with any questions or to schedule a meeting to discuss any aspect of this request. We appreciate your response on this issue.

DEPARTMENT'S RESPONSE:

I apologize for the delay in responding to your request. As you are aware, a Private Letter Ruling will bind the Department only with respect to taxpayer for the issue or issues presented in the ruling. Therefore, we are unable to apply the facts previously submitted for a specific ruling in this instance. We are unable to provide you with a specific response to your request in the context of a general information letter.

For general information regarding jurisdictional questions in relation to the situs of a sales transaction, please see 86 Ill. Adm. Code 270.115 of the Department's regulations which sets forth the test that is used to determine what local tax is applicable to any given sale.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk